



COMPARATIVE STUDY OF THE FAIR WAGE, LIVING WAGE AND MINIMUM WAGE IN CONTEXT WITH MINIMUM WAGE LEGISLATION IN INDIA

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ABSTRACT

Wages are an essential element for workers well being. The wages must be paid which fulfilled the basic needs of employees. This paper discussed three the concepts of wages i.e. fair wage, living wage and minimum wage. These three concepts used in various countries accordance with their social, economical and geographical condition. The minimum wage is dynamic concept. The minimum wage is the wage which is sufficient to cover the bare physical needs of worker and his family. The term "minimum wages" is used in a variety of ways throughout the world. India is one of the countries which adopted the concept of minimum wage accordance with guidelines of ILO. This paper highlights the issues and concerns relating to fair wage, living wage and minimum wage and their correlation between minimum wage legislation in India.

INTRODUCTION:

Wage is the part of National Income going to those who take part in the economic activities either physically or mentally and sometimes in both the ways. Wages is defined in oxford concise dictionary as, "wage is the amount paid periodically especially by the day, or week or month for time during which workman is at employer's disposal."

F. Benhem, defined wages:

"A wage may be defined as sum of money under contract by an employer to a worker in exchange for service rendered."

The wage is nothing but the monetary compensation paid by an employer to employee for doing certain work. The wage may be calculated in hourly, daily rate at a fixed amount for completion of work.

There are two types of wages i.e. Real wage and Nominal wage. Nominal wages are known as monetary wages or wages expressed in money without considering the value of money. But Real wages are valued in the sense of goods and service including amenities enjoyed by worker. The amount of the necessities comforts and luxuries enjoyed in return to his service is called as real wage. It depends upon purchasing power of money, hours of work and working condition and nature of employment etc.

Adam Smith defines the real wages "to consist in quantity of the necessities and conveniences that are given for it; etc., nominal wages in the quantity of money".²

The ILO (International Labour Organization) organized Protection of Wage Convention No.95 discussed the concept of wages under Article 1 as "wage means any remuneration or earnings calculated in terms of money which fixed by certain mutual agreement or any national law or regulation under written or unwritten contract of employment by the employer to employee for certain work".³

According to **V.V. Giri**, "the wage paid to a worker in industry, apparently not less than what he used to earn as a craftsman, were quiet inadequate to meet his barest needs in the environment, away from his rural homestead."⁴

There are various interpretations of the term 'wages'. It refers to different meanings such as wage rate, the aggregate earning of the working class per capita earnings, average hourly earnings as well as efficiency earning but our present context wage refer to remuneration which is paid for the service for labour engaged in the process of production. In other words wages are those payments which are made by the employer to the employee for his efforts in production. From the point of view of Laissez faire policy wage may be defined in terms of contract income. The contract takes place between employer and employee in which employees sells his labour power to the employer and receives money or goods in return.

Fair Wage, Living Wage and Minimum Wage:

Mainly there are three concepts of wages i.e. fair wage, living wage and minimum wage. A Living Wage is not the same as the minimum wages. The lower limit of fair wage is the minimum wage, while the upper limit is living wage.

a) Fair Wage:

Marshall has aptly given the classical definition of fair wage. According to him, wages in any occupation are 'fair' if they are, about on level with the average payment for tasks in other trades which are of equal difficulty and disagreeableness,

which requires equally rare natural abilities and an equality expensive training.⁵

The wages are treated to be fair wage if the average payment is in accordance with fair workload along with other trades which having equal difficulty. In India Fair Wage Committee published its report in 1949 says that, the fair wages are determined on the basis of the peculiar conditions obtaining in any country, the circumstances of particular industry or region in a country as well as the paying capacity of the employer.⁶

According to the report of the Committee on fair wages stated that, the actual wage would depend upon a consideration of certain factors like productivity of the labour; the prevailing rates of wages in the same industries; the level of the national income and the place of industry.⁷

The fair wage will grow with the growth and development of the national economy and the progress made by the industry must be approximate capacity of the industry to pay.

b) Living Wage:

Living wage is defined by the wage that can meet the basic needs to maintain a safe, decent standard of living within the community. In other word it can be say that, the living wage is the minimum income necessary for worker to meet the basic needs. These needs include shelter (housing) and other incidentals such as clothing and nutrition. The living wage is also known as subsistence wage.

The concept of living wage is developed by **Justice Higgins**. According to him living wage is one which is appropriate for "the normal needs of the average employee, regarded as a human being living in a civilized society."⁸

Adam Smith recognized that rising real wages leads to the "improvement in the circumstances of the lower rank of people" and are therefore an advantage to society. Growth and a system of liberty were the means by which the labouring poor were able to secure high wages and on acceptable standard of living. Raising real wages are secured by growth through increasing productivity against stable price level i.e. price not affected by inflation.

Adam Smith concept it can be stated that, real wage improved the living standard of low rank people. Growth means to whereby the labouring poor were secure high wages and improves its standard of living. Whereas **Justice Higgins** stated the Living wage is that wage which is appropriate for normal needs of average employee treated as a human being in civilized society. There are three things to constitute a living wage, it should be sufficient to pay for a satisfactory basic budget, it should be sufficient to purchase the minimum theoretical needs of a typical family and it should be comparable with a living wage already established in similar circumstances.⁹

Living wage is a **catholic concept** and began with an encyclical from Pope Leo XIII in 1891. Basically it is said that if a worker receives wages that enable him to provide comfortability for himself, his wife and his children he will be able to accrue a little wealthy, and as the right of private property is scared, the law should favour this right, and "see that the largest possible number among the masses prefer to own property."¹⁰

According to ILO and Fair Wage Foundation (FWF) Code of Labour Practice, a living wage is defined as "a wage paid for a standard working week meeting basic needs of workers and their families and to provide some discretionary income. 'Basic need' further includes cost like housing (with basic facilities

including electricity) nutrition, clothing, health care, education, drinking water, childcare, transport, and savings".¹¹

The living wage is difficult to fix in terms of money because it differs from country to country and time to time. Every country has its own national economy and social policy, hence concept of living wage is not static concept but it is dynamic in nature. The ILO Constitution preamble specifically lays down to provide living wage is urgent requirement provision and country should make policy in regard to wage and earning hours and other condition of work etc. to secure living wages of work. The concept of living wage accepted by various countries as highest level of wages which is important for basic needs of workers and other essential requirement to frugal and comfort life. In India under Article 43 of Constitution states that, the State shall endeavor to secure to all workers living wages, conditions of ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

a) Minimum Wage:

The minimum wage is dynamic concept. The minimum wages is one which can only provide for a bare subsistence. The lower limit of fair wage is the minimum wage, while the upper limit is living wage. It is the one which is sufficient to cover the bare physical needs of a worker and his family. It appears that the minimum wages is the wages which not only fulfilled physical needs of worker which keep him just above the starvation but also ensure subsistence of his family along with them. Minimum wage is that wage which preserves the efficiency of workmen.

The ILO has stated that the living wage should enable the bread earner to provide for himself and his family not merely the bare essential of food, clothing and shelter but a measure frugal comfort including education for children protection against ill health requirements of essential needs. The **Fair wage** principal is for fixing the minimum wage with reference to the prevailing rates of wages in the particular trade or industry. Under the fair wage principal three things are required i.e. standardization of wages within the industry, uniformity of wages in all occupation in an area and fair margins between the wages of unskilled, semi-skilled and skilled worker. The **minimum wage** is the wage which is sufficient to cover the bare physical needs of worker and his family.

The term "minimum wages" is used in a variety of ways throughout the world. The term "minimum Wages" is used in this study is to refer to those rates which are fixed by a process invoking the authority of state and below which wages cannot legally fall. It does not include the rates fixed in collective agreements even though these may be legally enforceable. The minimum wage is used to denote legally enforceable lower limits to wages fixed by a process invoking the authority of the State.

Fair wage and Living wage in context with the minimum wage:

The original Constitution of the ILO, established in 1919, listed "the provision of an adequate living wage" among the improvements in conditions of labour urgently required to combat social unrest and promote peace. The 1944 Philadelphia Declaration concerning the aims and purposes of the International Labour Organization affirmed that "poverty anywhere constitutes a danger to prosperity everywhere" and advocated world programmes that will achieve a minimum living wage to all employed and in need of such protection". Therefore as part of a basic-needs development strategy, wage policies should "ensure minimum levels of living".¹²

There is no universally accepted definition of a living wage; the idea behind it is that workers and their families should at least be able to lead a simple but decent life considered acceptable by society, in light of its level of economic development. They should be able to live above the poverty line and participate in social and cultural life. The concept of a living wage, therefore, refers both to the existence of a minimum level of remuneration and to an acceptable standard of living.¹³

The minimum wage fixing machinery published by ILO has summarized their views on minimum wages as: Minimum wages set the lowest limit below which wages cannot be allowed to sink at all. The minimum wage ensures not merely the physical needs of worker which would keep him just above the starvation but ensure his subsistence of his family as well. The minimum wages must also preserve worker's efficiency as workmen.¹⁴

According to Conventions No's 131 and 95, and other ILO instruments observed the minimum wage and living wage can be seen as components of the broader concept of fair wages. International Labour Conference has been identified 12 dimensions of the concept of fair wages. The wages must be paid regularly and in full to the workers; they must comply with the minimum wage regulations and at least correspond to the living wage; they should not require excessive working hours; they must lead to a balanced wage structure; free of discrimination; take into account different levels of education, skills and professional experience and reward individual and collective performance.¹⁵

According to international standards, the Minimum Wages is analogous to the lowest monetary value which may be paid to workers in a region and a point in time, either through existing acts or through collective bargaining. The Mini-

mum Wage is one of the most used instruments for affecting the wage distribution on the labour market. In fact, minimum wage is provided by law in 90% of the world's countries; however, its implementation varies highly in both approach and effectiveness across countries. The setting a minimum wage as a matter of policy is a contentious political issue and object of controversies among the government, workers' organizations and employers.

Fair Wage, Living Wage and Minimum Wage principle in India:

In India the enactment of Trade Dispute Act 1929 and the appointment of Royal Commission on Labour were two important landmarks in the evolution of labour policy with reference to wages. This commission, for the first time, recommended the setting up of machinery for fixation of minimum wages in keeping with certain requirement so as to avoid sweating in Indian industries

In India organized labour movement compel the government to take positive interest in labour matter. As per International Labour Conference (1928) norms in India Whitley commission recommended to setting up machinery for the fixation of minimum wages. The Fifth Indian Labour Conference and the Standing Labour Committee discussed the problem of minimum wage fixation.¹⁶

In 1946, 8th meeting of **Standing Labour Committee** recommended to enact **separate** legislation for unorganized sector for minimum wages. Therefore Minimum Wage Act 1948 was passed to provide fixation and enforcement of minimum wage in respect of scheduled employment to prevent sweating or exploitation of labour through payment of low wages. The objectives of the Act are to ensure a minimum subsistence wage for workers. The Act requires the appropriate Government to fix minimum rates of wages in respect of employment specified in the scheduled and review and revise the minimum rates of wages at interval not exceeding 5 years. The objectives of the Minimum Wage Act 1948 is accordance with Art 43 and Art 39 (d) of Constitution of India, stated that it is duty or state to make suitable legislation to give living wage and better working condition for labour.

In India, however the level of the National income is so low at present that, it is generally accepted that the country cannot afford to prescribe minimum wages which would correspond to the concept of the living wage. Also the National Commission on Labour in its reports observes that it is not possible to recommend fixation of minimum wage for the country's economy as a whole. It is suggested that different minimum wages for different industries ought to be fixed region wise for greater appeal and function.

The 15th Session of the Indian Labour Conference held at New Delhi in July, 1957 passed the resolution that minimum wage should be need based and should ensure the minimum human need of the Industrial worker. The conference framed certain norms for fixation of minimum wages. These norms are the standard working class family consists of three consumption unit for one earner; the minimum food requirement should be calculated on the basis of net intake of calories as recommended by Dr. Askroyd formula; the clothing requirement should be estimated on the basis of a per capita consumption of 18 yards per annum; housing and rent corresponding to the minimum area provided for under Governmental Housing Scheme; Fuel, lighting and other miscellaneous items of expenditure should constitute 20% of the total minimum wage.¹⁷ All these norms which are framed by Indian Labour Conference give ultimate definition of minimum wage.

Role of Judiciary on Fair Wage, Living Wage and Minimum Wage principle:

In India the minimum wages legislation is social welfare legislation. The object of Minimum Wage Act providing social justice to the workmen but employers exploited the workers deliberately by not providing minimum wages. Also the uniform minimum wages is not possible for all industries on account of different and varying condition, therefore in various time minimum wages decided by judiciary in terms of capacity to pay principal and living wage and fair wage concept in context with minimum wage principle. The various times the Supreme Court and High Court elaborate the concept of minimum wage in terms of living wage and fair wage by evaluating the concept of International norms, ILO's guidelines, Five Year Plan and Indian Labour Conference & Wage Commission Report. These principles under various cases helpful the Government, Wage commission for framing sound minimum wage policy and effective poverty alleviation programme in India. Some of these cases are as follows-

In **All India Reserve Bank Employees Vs Reserve Bank of India Ltd.**¹⁸ the Supreme Court defined fair wage as, "a Fair wage is thus related to fair workload and the earning capacity. It is a step lower than the living wage." The Supreme Court observed that, "the need based minimum wage as formulated by the Indian Labour Conference, was ideal to be pursued and deserve respect".

In **Hindustan Times Limited Vs Their workmen**¹⁹, the Supreme Court says that Fair wage is roughly said to be approximate to the need based minimum, in the sense of the wage which is adequate to cover the normal needs of the average employee regarded as a human being in a civilized society." The Supreme Court further held that "Living wage" maintains the workman in the highest state of industrial efficiency. "Living Wage" enables the worker to provide his family with all the material things which are needed for their health and physical well

being.

In **Shivraj Fine Arts Litho Works Vs State Industrial Court**²⁰, the Supreme Court upheld that “a fair wage is a mean between the living wage and the minimum wage. Wages must be fair, that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workmen but not at the rate exceeding its wage earning capacity in the class or establishment to which he belongs.

In **Express Newspaper Ltd. Vs Union of India**²¹, the Supreme Court viewed that “Living wage is one which is appropriate for the normal needs of the average employee regarded as a human being living in a civilized community. The living wage must provide not merely for absolutely essentials such as food, shelter and clothing but for condition of frugal comfort estimated by current human standards.” The Supreme Court further held that, “the fair wage is a mean between the living wage and the minimum wage.” The lower limit of the fair wage is above the minimum wage, whereas the upper limits below the living wage. The limit of the fair wage depends upon the 'capacity' of industry to pay.

In **Kamani Metals and Alloys Ltd. Vs Their workmen**²², the Supreme Court held that “Minimum Wage set the lowest limit below which wages cannot be allowed to sink in all humanity. The wage must be fair, that is to say sufficient high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but at a rate not exceeding his wage earning capacity”.

In **Unichyi Vs State of Kedra**²³, the Supreme Court has taken view that minimum wage should provide for subsistence and maintenance of the worker and his family and preserving his efficiency as a worker.

In **Chandra Bhavan Boarding and Lodging Vs State of Mysore**²⁴, the Supreme Court held that “Minimum wage does not mean a wage just sufficient for bare sustenance. The minimum wage is a wage which is somewhat intermediate to a wage just sufficient for bare sustenance and a fair wage. That concept includes not only wage sufficient to meet the bare sustenance of an employee and his family, it also includes expenses necessary for its other primary needs such as medical expenses, education of children and transport expenses”.

In **Shakti Offset Works Vs State Industrial Court**²⁵, the Supreme Court viewed that “while fixing a minimum wage, a capacity of industry to pay is not relevant, but in fixing a fair wage, the capacity of industry to bear a burden of the said wage is a very relevant and important factor”.

In **Crown Aluminum Works vs. Their Workmen**²⁶, first time Supreme Court criticized the minimum wage policy and stated his views openly. In the case of an expanding national economy the contents of these expressions are also apt to expand and vary. What may be fair wage in a particular industry in one country may be living wage in the same industry in another country. Similarly, what may be a fair wage in a given industry today may cease to be fair and may border on the minimum wage in future. Industrial adjudication has naturally to apply carefully the relevant principles of wage structure and decide every industrial dispute so as to do justice to both labour and capital.

In **Workmen of Reptakos Brett Co. Ltd. Vs Reptakos**²⁷, the Supreme Court held that the wage structure can be divided into three categories: the “basic minimum wage” which provides bare subsistence and is at poverty level a little above is the “fair wage” and finally the “living wage”, which comes at comfort level. It is not possible to demarcate these levels with any precision. There is however well accepted norms, which broadly distinguish one category of pay structure, form another. The Supreme Court further held that, wage is socio economic aspect and hence for calculating minimum wage children education, medical requirement minimum recreation including festivals/ceremonies and provision for old age, marriage should further constitute 25 per cent of the total minimum wage”.

All the cases which discussed above where in the Supreme Court and High Court evaluate the minimum wage concept in the light of fair wage and living wage principle.

The above discussion it is clear that the fair wage will grow with the growth and development of the national economy and the capacity of the industry to pay while the living wage is difficult to fix in terms of money because it differs from country to country and time to time. Every country has its own national economy and social policy, hence concept of living wage is not static concept but it is dynamic in nature. The minimum wage is not static concept, it undergo a change with the growth of our economy and also change with the growth with the standard of living. It is also differ from place to place and industry to industry, hence minimum wage based on ethical consideration and not an economical ground. In India the level of the National income is low therefore Supreme Court and High Court discussed fair wage and living wage principle in context with minimum wage principle. In fact, minimum wage is provided by law in 90% of the world's countries; however its implementation varies highly in both approach and effectiveness across countries. Hence it can be say that the minimum wage is the subject of substantial theoretical as well as political controversy. The intend objec-

tives of establishing minimum wages are to prevent the exploitation of workers by employers, to promote fair wage structure, to provide a minimum acceptable standard of living for low paid workers and, eventually, to alleviate poverty amongst the workers.

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